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Polygraph
Leads*DIRECTOR OF CENTRAL INTELLIGENCE
Security CommitteeSECOM-D-032
28 January 1985STAT
MEMORANDUM FOR: Legislative Division
Office of Legislation LiaisonSTAT
FROM:

Chairman

SUBJECT: H.R. 39 "Federal Polygraph Limitation and
Anti-Censorship Act of 1984"

1. In response to your 18 January 1985 memorandum, same subject, we continue to support total opposition to H.R. 39. You will recall that a SECOM Personnel Security Survey in 1980 demonstrated that the polygraph is by far the single most productive source of adverse data in personnel security investigations. Enactment of this bill would deny most members of the Intelligence Community the use of this important tool.

2. Also, perhaps more attention needs to be drawn to the fact that non-disclosure agreements existed for SCI before NSDD-84. They have been used in the Intelligence Community for decades and their validity was upheld in 1980 by the Supreme Court in Snepp v. United States. The one now generally used within the Intelligence Community is Form 4193, dated December 1981. This form replaced the July 1981 edition of the same form, which for the first time provided explicit instructions for prepublication review instead of the requirement to obtain government approval before disclosure, found in secrecy agreements previously used. Other forms in effect on or before 1 March 1983 which contain explicit prepublication review clauses also are being used for access to SCI. H.R. 39 inaccurately portrays these agreements as censorship devices--in reality they only are intended to provide the Government an opportunity to prevent public disclosure of classified information. To do otherwise would be an abuse of the agreements on the Government's part. The fairness with which the CIA review process is conducted is attested to by an October 1983 finding by the U.S. Court of Appeals for the District of Columbia, in the case of the magazine article by a former employee, upholding the manner in which the Agency conducts prepublication reviews.

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3. Please refer to my previous memos to on this subject and call me if you have any questions or need other assistance.